*REMARKS/ARGUMENTS*

In response to the Office Action mailed October 6, 2006, Applicant amends his application and requests continued examination. In this Amendment no claims are added or cancelled so thatclaims 1-4 remain pending.

In this Amendment examined independent claims 1 and 3 are amended. The amendments to claims 1 and 3 describe more specifically the location of the fourth splitter with respect to the phase control element or the first phase control element in the claimed optical function device. This description is supported by at least the embodiment of the invention described in the patent application with respect to Figure 6.

Examined claims 1-4 were rejected as anticipated by Leuthold et al (U.S. Patent 5,933,554, hereinafter Leuthold). This rejection is respectfully traversed with respect to the claims now pending.

In explaining the rejection, emphasis was placed on Figure 10 of Leuthold. However, the structure shown in that figure is not encompassed by any claim now pending. In Figure 10 of Leuthold, the phase control elements are given reference numbers 115 and 119. Each of those phase control elements is interposed between a respective pair of splitters, 113 and 116, and 117 and 120. If an attempt is made to read independent claims 1 and 3 on Figure 10 of Leuthold, it can be seen that the phase control element of claim 1 and the first phase control element of claim 3, as described in those claims, would have to be located between the splitters 112 and 116, or an equivalent location in Figure 10 of Leuthold to meet the claims. Since there is no phase control element at that location in Leuthold, Leuthold cannot anticipate any claim now pending.

Moreover, in Leuthold there is phase control at the third port, for example reference number 7 in Figure 10 of Leuthold, because of the location of the phase control element 115. By contrast, in the invention as described by amended claims 1 and 3, with the specified location of the phase control element and the first phase control element, there is no phase control at the port corresponding to the port 7 in Leuthold. Thus, there are differences between the invention and Leuthold, not only in the structure of the invention, but also in operation of the invention defined by amended claims 1-4 and

Leuthold. Accordingly, the claims presented here are patentably distinct from Leuthold.

Upon reconsideration, all pending claims should be allowed.

Respectfully submitted,

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